

Fair Political Practices Commission

Memorandum

To: Chairman Randolph, Commissioners Blair, Downey, Huguenin and Remy

From: John W. Wallace, Assistant General Counsel
Luisa Menchaca, General Counsel

Subject: September 2006 Work Plan Revisions

Date: September 1, 2006

I. INTRODUCTION

Each year the Commission approves a regulatory work plan for the next calendar year. The plan provides for quarterly work plan revisions. Attached is the September update to the regulatory work plan for calendar year 2006 reflecting changes during the third quarter. Proposed regulatory projects for 2007 will be presented next month.

II. PROPOSED REVISIONS

A. Campaign Projects

Item 1. McCain-Feingold: Under the recently-amended federal counterpart of the PRA, a specified percentage of certain expenditures jointly relating to federal and state/local elections must be reported as attributable to the federal election. This project considers whether a more accurate method for allocating such expenditures may be used in California. Staff has prepared and presented a draft letter to the Federal Elections Commission (FEC), seeking an advisory opinion on this issue. The FEC declined to issue an advisory opinion on a regulation that the Commission had not yet adopted

Item 3. Hard & Soft Money Bank Accounts: Section 85303 sets limits on contributions received by committees and political party committees from individual contributors, for the purpose of making contributions to candidates for elective state office. However, section 85303(c) provides that no limits apply to contributions to such committees that are used for purposes *other* than making contributions to candidates for elective state office. This project investigates whether contributions in excess of the contribution limits to these committees should be required to be deposited into a separate bank account, in order to avoid circumvention of the contribution limits.

***CHANGE:** These two items are being developed and presented together. The interested persons' meeting was held in June. However, rather than hearing the item for an additional*

prenotice in July, the Commission received an update on the two items. Prenotice is now set for September, with adoption in November.

Item 5. Recurring Credit Card Contributions: Some contributions are set up to be paid out over a specified period of time, or on an ongoing basis. For example, the contributor may wish to contribute \$10 a month for an indefinite time period. This project explores whether the total amount of the contributions should be reported when the first payment is made, or whether disclosure should be made as each installment is actually paid.

***CHANGE:** This item was originally set for prenotice hearing in September and adoption in November. After closer consideration of the limited scope of this project, staff now proposes that this item simply be presented for adoption in October, without prenotice hearing.*

Item 7. One-Bank Account Rule -- Contributions Through Vendors: Vendors sometimes run a website through which they collect candidate contributions and contributor information. Staff recommends that the Commission define the type of “account” this vendor creates in collecting and holding the contributions, specifying into which accounts the vendor may hold this money. In addition, a second similar issue concerns vendor fees. A vendor usually subtracts his fee from the money collected before transferring the money to the committee. The vendor is an agent of the committee and not an intermediary. Thus, when the vendor receives the contribution the committee is also deemed to have received it.

***CHANGE:** This item has been rescheduled for prenotice discussion in October and adoption in December.*

Item 8. Cosponsored Payments: Payments made at the behest of a candidate are contributions *unless* the payment is made for purposes that are legislative/charitable or governmental. Such payments must be reported within 30 days from the date the payments aggregate \$5,000 or more from the same source during the calendar year. Staff proposes developing a form and supporting regulation for reporting these payments.

***CHANGE:** Senate Bill 784 proposes to amend the same provisions as are at issue in this regulatory project. Consequently, we are deferring any action on this regulatory project until the end of the legislative session on August 21, 2006. An interested persons’ meeting will take place no earlier than September, and prenotice discussion no earlier than November. The adoption hearing would be in early 2007.*

B. Conflict of Interest

Item 2. Stem Cell Commission: Two sections of the new law refer to the PRA (Health & Safety Code §§ 125290.30(g) & 125290.50). Staff proposes to investigate whether Prop 71 amended the Act indirectly, and the FPPC’s role in advising/enforcing these provisions. (Carryover from 2005.)

CHANGE: *This item was removed from the calendar and was dealt with by the Executive Director in his review of the conflict of interest code for the Stem Cell Commission.*

Item 6(b). Gifts to Immediate Family: Regulation 18944 interprets § 82028 relating to gifts to an official's or a candidate's immediate family. Reg. 18944(a) provides that "[g]ifts given directly to members of an official's immediate family are not gifts to the official unless used or disposed of by the official or given by the recipient member of the official's immediate family to the official for disposition or use at the official's discretion." This project would add a specific provision stating that gifts given directly to an official but intended for use by the official's child (such as baby shower gifts), are gifts to the child. This project seeks to further clarify application of regulation 18944.

NEW ITEM: *This project was originally part of the Wedding Gifts/Baby Showers and Receptions project (see item 6a on the chart). At the May Commission meeting the Commission approved a proposal to split this item from the other project and consider it as a separate item. An interested persons' meeting was held on May 10th and the regulation amendments were adopted.*

C. Administrative, Enforcement, and other Issues

NO CHANGES.

D. Other Miscellaneous Items

NO CHANGES.

ATTACHMENT